

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ORLANDO BETHEL and GLYNIS :
BETHEL,

Petitioners, :

v. : MISC. NOS.: 09-0010-KD-C;
BALDWIN BOARD OF EDUCATION, : 09-0011-KD-C; 09-0012-KD-C,
09-0013-KD-C; and 09-0014-KD-C

Defendant. :

ORDER

The motions to compel, filed in each one of the miscellaneous actions listed above, have been referred to the undersigned for disposition pursuant to 28 U.S.C. § 636(b)(1)(A) and (b)(3). After a review of the motions and the Schedule of Fees set by the Judicial Conference of the United States, it is clear that the motions to compel are due to be denied as unnecessary.

The Petitioners have “demanded” that this Court prove that the payment of a \$39 filing fee, as previously ordered, is required by law. They accuse the Court of “attempting to force a fee upon a motion in which none is required in the FRCP for the motion to Perpetuate Testimony.” Such is simply not the case.

In 28 U.S.C. § 1914, Congress requires that all district courts collect a filing fee of \$350 (habeas actions only require a \$5 fee) for all civil actions. As to miscellaneous filings, fees are to be collected pursuant to a fee schedule established by the Judicial Conference. (“The clerk shall collect from the parties such additional fees only as

prescribed by the Judicial Conference of the United States.”) *Id.* at § 1914(b). The fee schedule governing the filing fee for petitions to perpetuate testimony pursuant to Rule 27(a), Federal Rules of Civil Procedure, effective March 28, 2008, required that \$39.00 be paid in order to file documents that are not to be filed in a case or proceeding for which a filing fee had been paid. This schedule is readily available to the Petitioners through the Clerk’s Office or the Administrative Office of United States Courts. They could have easily obtained a copy of the fee schedule from the Clerk and the statute is clearly a matter of public record.

For these reasons, the motions to compel are **DENIED**. Petitioners are to pay the requisite filing fees not later than **May 6, 2009** or it will be the undersigned’s recommendation that these miscellaneous actions be dismissed for failure to pay a filing fee.

DONE AND ORDERED this 27th day of April, 2009.

s/WILLIAM E. CASSADY
UNITED STATES MAGISTRATE JUDGE